

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

DAVID D. EVERIST,

Plaintiff,

1:12-cv-995-CL

v.

REPORT AND  
RECOMMENDATION

USDI, et al.,

Defendants.

CLARKE, District Judge.

By Order (#4) entered June 7, 2012, plaintiff was allowed 30 days to file an amended complaint consistent with the pleading standards explained in the court's order. On June 19, 2012, plaintiff filed an "Amended Complaint for a writ of Mandamus" (6). However, plaintiff's amended pleading does not cure the deficiencies that led to the dismissal of the original complaint.

The court is unable to determine the nature of plaintiff's claims, the defendants he seeks to hold liable or the relief he seeks.

Plaintiff's complaint should be dismissed for failure to state a claim. Because it is apparent the the deficiencies of the complaint cannot be cured by amendment, the dismissal should be with

prejudice.

Plaintiff's Motion for Default Judgment (#12) should be denied.

This case should be dismissed.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determination of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

*Any appeal from an order adopting this Report and Recommendation or a judgment of dismissal of this case would be frivolous and not taken in good faith.*

DATED this 1 day of August, 2011.

A handwritten signature in blue ink, appearing to read 'Mark D. Clarke', is written over a horizontal line.

Mark D. Clarke  
United States Magistrate Judge